2	THOMAS M. BOEHM [SBN 63888] LAW OFFICE OF THOMAS M. BOEHM 2 North Santa Cruz Avenue, Suite 21 I Los Gatos, CA 95030-5900						
3	TELEPHONE: FACSIMILE: EMAIL:	408.998.8899 408.998.4848 BOEHMTM@GM	IAIL.CC	<u>0M</u>			
567	ATTORNEY FOR F BERNARD PICOT MTN TO DISMISS.OPPO.BP.M	and PAUL DAVID I	MANOS	5			
8		UNITED STA	ATES D	ISTRICT COU	RT		
9		NORTHERN D	OISTRIC [®]	T OF CALIFOR	RNIA		
10		SAN	JOSE D	DIVISION			
11 12	BERNARD PICOT PAUL DAVID MAI)	CASE NO. 5	5:12-CV-01939 EJD		
13	Plaintiffs,)				
14	V.)	DECLARATI			
15	DEAN D. WESTON, and DOES 1 through 15, inclusive,			 PAUL DAVID MANOS IN OPPOSITION TO MOTIONS TO DISMISS FOR LACK OF JURISDICTIC AND VENUE AND TO TRANSFER 			
16 17	Defendants.)		: August 10, 2012		
18			,	Dept: Judge:	Courtroom 4, 5 th Floor Hon. Edward J. Davila		
19 20							
21 22	i, Bernard	O PICOT, declare as	s follows	:			
23242526	I I am a Califor	•	rson an	nd a resident o	of the Santa Clara County,		
27	DECLARATION OF BE	ERNARD PICOT	WESTON, 5:	12-CV-01939 EJD			
28	FOR LACK OF JURISI	DICTION AND VENUE	ND TO T	TRANSFER	Page 1 of 12 nages		

1	2	I make this Declaration in opposition to the motions pending before this Court
2		brought by DEAN WESTON ["WESTON"] to dismiss the action for lack of
3		personal jurisdiction and venue and to transfer this case to the Eastern District
4		of Michigan.
5		
6	3	In approximately March 2009, I contacted PAUL DAVID MANOS ["MANOS"]
7		and asked him to evaluate a hydrogen based technology I had learned of then
8		being promoted by Carey Hilton in Texas [the "HILTON TECHNOLOGY"].
9		asked MANOS to assess and, if suitable, further develop the HILTON
10		TECHNOLOGY while, from California, I would primarily tend to the business
11		issues. MANOS and I agreed each of us would enjoy an equal ownership
12		interest if we were successful in this effort.
13		
14	4	From the time I contacted MANOS through today, I have centered my activities
15		with regard to this matter in and from California, though I have traveled to
16		Michigan on occasion.
17		
18	5	I knew that MANOS had asked WESTON to go to Texas to inspect the
19		HILTON TECHNOLOGY but that, thereafter, MANOS was working on his own
20		evaluation in Nevada.
21		
22	6	After WESTON'S trip to Texas to observe the HILTON TECHNOLOGY,
23		MANOS informed me that WESTON was engaged in an extensive effort to
24		validate the HILTON TECHNOLOGY for the purpose of obtaining a license for
25		it for himself and his business associate, Frank Joseph, under the name of an
26		
		PICOT v WESTON 5-12 CV 01030 F ID

DECLARATION OF BERNARD PICOT IN OPPOSITION TO MOTIONS TO DISMISS

1		entity called The Right Angle. On July 19, 2009 I sent a proposed agreement		
2		to WESTON and Joseph, numbering in excess of twenty [20] pages, in order to		
3		define the relationships regarding the HILTON TECHNOLOGY between Th		
4		Right Angle and Carey Hilton, but WESTON never signed it. I prepared this		
5		agreement for signature by "The Right Angle, Dean Weston President."		
6		WESTON never objected to me about this designation, which I understood to		
7		be correct.		
8				
9	7	I was never in Michigan during 2009, though I did go there in 2010 for my		
10		project with MANOS. On those few occasions when I was in Michigan in		
11		2010:		
12		7.1 I met WESTON only in superficial circumstances of brief duration		
13		and,		
14		7.2 I was never alone with him; and,		
15		7.3 I observed WESTON assisting MANOS under MANOS' direction		
16		in plainly unimportant tasks.		
17				
18	8	In about November 2009, DBHS LLC was created in Nevada to act as agent for		
19		me and MANOS concerning the hoped for success of our venture. MANOS		
20		Julia Blair, a Nevada resident, and I were the only three members of DBHS at		
21		all times. Blair held no ownership or equity interest, but tended to the		
22		administrative aspects. DBHS was dissolved in October 2011.		
23				
24	9	In about November 2009, MANOS told me that WESTON and Frank Joseph		
25		through The Right Angle, wanted to purchase a large number of units and		
26				
		PICOT v WESTON 5:12-CV-01030 F ID		

²⁷ DECLARATION OF BERNARD PICOT

IN OPPOSITION TO MOTIONS TO DISMISS

1		corresponding electrolyte fluid once MANOS had solved the remaining issues
2		he was facing. Accordingly, I created an invoice in the name of DBHS and sent
3		it to WESTON in early December 2009. A copy of the invoice is attached
4		hereto as EXHIBIT "A." WESTON never objected to me about this invoice,
5		which I understood to have been correct but rendered infeasible once
6		WESTON'S partner in The Right Angle, Frank Joseph, was convicted of Federal
7		crimes in December 2009.
8		
9	10	At my and MANOS' request and at our expense, WESTON traveled to
10		Southern California in about January 2010, where he stayed for approximately
11		a week, to assist MANOS in a demonstration to Peter Warkentin, who lived in
12		that area. Warkentin had been procured by me from my activities in California
13		as a potential purchaser or licensee.
14		
15	11	The Warkentin demonstration was also attended by MANOS, me and:
16		11.1 Russ Reeder, a business colleague of Warkentin's and another
17		resident of California; and,
18		Peter Mueller, a California resident, who worked for Brabus USA
19		of Irvine, California, and independently tested the prototype at the
20		invitation of Messrs. Warkentin and Reeder as part of the
21		demonstration.
22		
23	12	Warkentin was favorably impressed by the demonstration in Southern California
24		and asked that another demonstration be conducted in Mexico for a prospect
25		of his there. Warkentin agreed to pay for the travel expenses for the
26		
		PICOT v WESTON, 5:12-CV-01939 EJD

²⁷ DECLARATION OF BERNARD PICOT IN OPPOSITION TO MOTIONS TO DISMISS

FOR LACK OF JURISDICTION AND VENUE AND TO TRANSFER...... Page 4 of 12 pages.

1		demonstration in Mexico, so MANOS and I consented and MANOS asked
2		WESTON to travel to Mexico to conduct the requested demonstration there
3		pursuant to Warkentin's request. WESTON did so and was paid by or at the
4		direction of Warkentin.
5		
6	13	MANOS asked me to provide him with a non-disclosure agreement [the
7		"NDA"] to be signed by WESTON, which I did under the name of DBHS.
8		
9	14	As a result of my ongoing efforts in and from California, I procured ADP
10		HOLDINGS, LTD., a California corporation based near Sacramento ["ADP"].
11		In May 2010, ADP proposed a joint venture which would obtain a license to
12		exploit the hydrogen technology and wanted a demonstration.
13		
14	15	In June 2010, again at MANOS' and my request, WESTON traveled to the
15		Sacramento, California area to install prototypes on ADP'S vehicles for the
16		requested demonstration.
17		
18	16	While WESTON was assisting MANOS in the demonstration to ADP, ADP
19		suggested to me and MANOS that the joint venture it had proposed should
20		create a research, development, and marketing facility for the project in a
21		building it had already located near Sacramento. MANOS and I each expressed
22		an interest in doing so.
23		
24	17	When he heard this discussion, WESTON told the principals of ADP that he
25		wanted to work at that California location for the joint venture.
26		
		DICOTE WESTERN 5.12 CV 01020 F ID

DECLARATION OF BERNARD PICOT

IN OPPOSITION TO MOTIONS TO DISMISS 28 FOR LACK OF JURISDICTION AND VENUE AND TO TRANSFER. Page 5 of 12 pages.

1	18	WESTON'S travel expenses for his trips to California for the Warkentin and
2		ADP presentations were paid by or at the direction of me and/or MANOS.
3		
4	19	From June 2010 through July 2011, WESTON was paid at least \$42,500 by
5		or at the direction of MANOS and me in exchange for his work and any related
6		expenses he may have incurred, exclusive of travel expenses. Knowing of
7		WESTON'S request for money, I personally mail a check for \$10,000 from
8		California in June 2010 to pay for his time in the ADP demonstration.
9		
10	20	In the Fall of 2010, WESTON participated from Michigan in a "Skype"
11		presentation of a prototype to a prospect in China arranged by or for the benefit
12		of ADP and originating from California, where Dan Heindrichs, a principal of
13		ADP, was located.
14		
15	21	WESTON was aware that ADP was advancing money based on its May 2010
16		commitment, but never claimed to me that he was entitled to any portion of that
17		money.
18		
19	22	Because ADP did not complete its full funding commitment, Dan Heindrichs
20		and Darrell Smith, both residents of California and both principals of ADP, me
21		in San Jose, California on January 19, 2011 with me, MANOS and Tracy Coats
22		and orally terminated ADP'S relationship.
23		
24	23	By check dated February 23, 2011, from California I caused DBHS to pay
25		\$10,000 to ADP relating to the termination.
26		
27	DECLADAT	<u>PICOT v WESTON,</u> 5:12-CV-01939 EJD ION OF RERNARD PICOT

DECLARATION OF BERNARD PICOT
IN OPPOSITION TO MOTIONS TO DISMISS

1	24	In May and June 2011, Thomas M. Boehm, a California attorney, represented
2		MANOS and me in certain issues that arose then between us and ADP. Mr.
3		Boehm's fees were paid from California.
4		
5	25	In April 2011, IBKE, an entity controlled by Tracy Coats and Carl Le Souef, a
6		resident of Australia, obtained an expanded license agreement for the cells and
7		fluid MANOS had developed in his venture with me, enlarging the territory to
8		the entire world.
9		
10	26	WESTON knew that payments were being made under the IBKE license, but
11		never claimed to me that he was entitled to any portion of that money.
12		
13	27	I was also represented by Mr. Boehm in regard to the sale of the cells and fluid
14		to an entity to be formed and controlled by Tracy Coats and Carl Le Souef.
15		Again, Mr. Boehm's fees for this service were paid from California.
16		
17	28	In furtherance of the talks with Coats and Le Souef, in December 2011 I
18		attended meetings with MANOS, Coats and Le Souef in Los Angeles. Impasses
19		in the discussions were mediated there by Joseph Dunn, a resident of Los
20		Gatos, California. MANOS, I and the principals of HMR signed the final version
21		of the sales agreement in Los Angeles, California and it became effective
22		December 12, 2011 [the "CONTRACT"].
23		
24	29	At all times when I was in WESTON'S presence in Michigan or California:
25		29.1 I believed WESTON was acting for his own advantage in working
26		
		PICOT v WESTON 5:12 CV-01030 F ID

27

IN OPPOSITION TO MOTIONS TO DISMISS

DECLARATION OF BERNARD PICOT

1			with MANOS with the hope of interesting one of WESTON'S
2			contacts in the technology;
3		29.2	WESTON was subject to the direction of MANOS;
4		29.3	WESTON never said or did anything to make me think he was not
5			acting for his own benefit as described or that he expected a share
6			of the profits from the project MANOS and I were engaged on.
7			
8	30	I have no	ever told WESTON that:
9		30.1	He was entitled to or would receive an ownership interest in the
10			hydrogen project MANOS and I were engaged in under any
11			circumstances;
12		30.2	He was entitled to or would receive a share in or portion of the
13			profits from the sale or license of the hydrogen project MANOS
14			and I were engaged in; or,
15		30.3	He was entitled to or would receive \$20,000 per month for his
16			efforts in assisting MANOS or for such expenses as he might incur
17			in regard thereto.
18			
19	31	On Mar	ch 20, 2012, I received an email indicating that it originated from
20		William	Dobreff, who identified himself as a Michigan attorney for WESTON.
21		А сору	of this email is attached as EXHIBIT "C" to the accompanying
22		DECLAF	RATION OF PAUL DAVID MANOS IN OPPOSITION TO MOTIONS
23		TO DIS	SMISS FOR LACK OF JURISDICTION AND VENUE AND TO
24		TRANSF	FER.
25 /	//		
26 _			
			PICOT v WESTON, 5:12-CV-01939 EJD

DECLARATION OF BERNARD PICOT IN OPPOSITION TO MOTIONS TO DISMISS

1	32	As a direct ro	esult of	the actions by W	VESTON in asserting the oral agreement he
2				•	by his actions in asserting to HMR that
3					the electrolyte to him in August 2009:
4					ments under the CONTRACT, which were
5			benefit	ting me in Califo	ornia; and,
6		32.2	I have	incurred and p	paid attorney's fees in California to seek
7			resolut	ion of the matte	er with HMR and disprove that WESTON
8			obtaine	ed the formula as	s he maintains or is entitled to a share of the
9			payme	nts under the CO	ONTRACT otherwise coming to me here.
10					
11	33	In addition t	to the p	parties to this ac	tion and those listed in the accompanying
12		DECLARAT	ION O	F PAUL DAVID	MANOS IN OPPOSITION TO MOTIONS
13		TO DISMIS	SS FOI	r lack of Ju	JRISDICTION AND VENUE AND TO
14		TRANSFER,	the fo	ollowing individu	als are expected to provide evidence as
15		indicated be	low:		
16		INDIVIDUA	<u>L</u>	<u>RESIDENCE</u>	EXPECTED EVIDENCE
17	33.1	Conchita Fra	anco-Se	erri California	Discussions with me in California
18					regarding the possibility of a license
19					for the technology in Latin America.
20	33.2	Bill Black		California	Discussions with me in California
21					regarding the possibility of an early
22					stage investment in the technology.
23	33.3	Stephanie W	/edge	California	Discussions with me in California
24					regarding the possibility of an early
25					stage investment in the technology.
26					

DECLARATION OF BERNARD PICOT
IN OPPOSITION TO MOTIONS TO DISMISS

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1	33.4	Nathan Cocozza	California	Discussions with me in California
2				regarding the possibility of a vertical
3				license for California.
4	33.5	Dino Peccaro	California	Discussions with me in California
5				regarding the possibility of use of the
6				technology by PG&E.
7	33.6	Justin Garcia	California	Discussions with me in California
8				regarding the introductions to others
9				to advance the project.
10	33.7	Nick Saifan	California	Discussions with me in California
11				regarding the possibility of investing
12				in and promoting the technology in
13				the middle east and to the US
14				government.
15	33.8	Russ Reeder	California	Oral and documentary concerning:
16				Discussions with me, in part in
17				California, regarding the possibility of
18				investing in and promoting the
19				technology in the European
20				countries.
21	33.9	Carey Hilton	Texas	Discussions with me regarding the
22				possibility of investment in or
23				licenses for the HILTON
24				TECHNOLOGY and observations on
25				WESTON'S role in Texas and, later,
26				

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²⁷ DECLARATION OF BERNARD PICOT IN OPPOSITION TO MOTIONS TO DISMISS

FOR LACK OF JURISDICTION AND VENUE AND TO TRANSFER. Page 10 of 12 pages.

1				at the Roush testing paid for by
2				WESTON and/or Frank Joseph.
3	33.10	Tracy Coats	Ohio	Oral and documentary concerning:
4				Roles of PICOT and MANOS in
5				regard to developing, promoting,
6				licensing, and selling the technology;
7				interaction with WESTON
8				concerning claims that MANOS
9				disclosed the formula for the
10				electrolyte to WESTON; claims of
11				breach of warranty by PICOT and
12				MANOS under the contract with
13				HMR.
14	33.11	Carl Le Souef	Australia	Oral and documentary concerning:
15				Same as for Coats.
16	33.12	Rodney Adler	Australia	Oral and documentary concerning:
17				His role in collaborating with Le
18				Souef in funding license agreement.
19				
20				
21				
22				
23				
24				
25	//			
26				
27	DECLADATI	ON OF DEDNADD D	PICOT v WESTON, 5:12	-CV-01939 EJD

²⁷ DECLARATION OF BERNARD PICOT IN OPPOSITION TO MOTIONS TO DISMISS

1	33.13 Gary Nicholson China	Discussions with me regarding the
2		ADP and IBKE.
3		
4	I declare under penalty of perjury under	the laws of the United States that the foregoing
5	is true of my personal knowledge, that if	called as a witness I could and would testify
6	competently thereto, and that this declaration	on was executed at San Jose, California on May
7	8, 2012.	
8		
9		
10		
11		
12	BERNARD PICOT	_
13		
14		
15		
16	j	
17	,	
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24		
25		
26	PICOT v WESTO	<u>N</u> , 5:12-CV-01939 EJD
27	DECLARATION OF BERNARD PICOT	

FOR LACK OF JURISDICTION AND VENUE AND TO TRANSFER. Page 12 of 12 pages.

IN OPPOSITION TO MOTIONS TO DISMISS

1	1 33.13 Gary Nicholson China	Discussions with me regarding the						
2	2	ADP and IBKE.						
3	3							
4	4 I declare under penalty of perjury u	nder the laws of the United States that the foregoing						
5	5 is true of my personal knowledge, the	is true of my personal knowledge, that if called as a witness I could and would testif						
6	6 competently thereto, and that this decl	aration was executed at San Jose, California on May						
7	7 8, 2012.							
8	8							
9	9							
10	0	. ///						
11	1 /3-1	the						
12	BERNARD PICOT							
13	3							
14	4							
15								
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22								
23 24	•							
25								
26								
27	PICOT v	<u>VESTON</u> , 5:12-CV-01939 EJD						
21	DECLARATION OF BERNARD PICOT							

EXHIBIT "A"

to
DECLARATION OF BERNARD PICOT
IN OPPOSITION TO MOTIONS
TO DISMISS FOR
LACK OF JURISDICTION AND VENUE
AND TO TRANSFER



David Manos <dmanos55@gmail.com>

Tue, Dec 1, 2009 at 3:22 PM

invoice against purchase order

1 message

Reply-To: bpicot@suntco.com

To: Dean Weston <deandavidweston@yahoo.com>

Cc: David Manos <dmanos55@gmail.com>, bpicot@suntco.com

Dean,

Please find the invoice related to your verbal purchase order

I would need your business address to complete it

Let me know if this agreeable to you

Best,

Bernard Picot

President & Founder

SUNTCO

3940 Valley Avenue

Pleasanton, CA 94566

925 494 9100 fax

bpicot@suntco.com

www.suntco.com

408.607.5600 Cell

Excellence is the result of caring more than others think is wise, risking more than others think is safe, dreaming more than others think is practical, and expecting more than others think is possible....



RIGHT ANGLE MATERIAL INVOICE - DECEMBER 1ST 2009.docx 26K



Invoice # 0000010014/ December 1, 2009

DBHS CORPORATION P0 BOX 2736 STATELINE, NV 89449

Phone: (1) 408 607 5600	
Fax: (1) 925 484 9100	

To:

THE RIGHT ANGLE

Dean Weston [Customer [Customer Ship to (if different address):

Line Item	Description	List Price	Transfer Price	Qty	Amount
1	HYDROSTEIN X2TE8XL	\$5,000.00	\$2,750.00	2,000	\$5,500,000.00
2	HYDROSTEIN FLUID	\$39.95	\$20.00	100,000	\$2,000,000.00
11-201010000					
***************************************					MARK GALLERY CO.
-				Subtotal	\$7,500,000.00
				Тах	\$000.00
=				Total Due	\$7,500,000.00

- 1. Make all checks payable to: DBHS LLC
- 2. Upfront payment in full is required for DBHS to initiate the manufacturing process
 - 3. First delivery of 200 units will occur within 90 days upon clearing of the check
 - 4. 400 units will be then shipped every months until completion

(3)